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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8950 of 2007

The Chairman/Secretary
S.Veer Savarkar HIndu
Education Trust & anr. ...Petitioner

V/s.

Ms. Hema P. Bele & ors. ...Respondents

Mr.D.S.Jadhav for the Petitioner

CORAM : B.H.MARLAPALLE,J.
DATED : 13th December, 2007

P.C.

Heard Mr.Jadhav, the Learned Counsel for the Petitioner Society. In Appeal No. 68/2002 it had filed an application for amendment of its written-statement and the said application came to be dismissed on merits on 1-8-2007 in the absence of the Learned Advocate for the Petitioners. The Petitioners, therefore, filed a Review Petition on or about 12-9-2007 and prayed for the recall of the order dated 1-8-2007 on the ground that it was passed exparte. This application also came to be rejected by the School Tribunal on 18-10-2007 and hence this petition.

2. Mr. Jadhav submitted that when the Advocate for the management was not present when the amendment application was taken up for hearing, the School

Tribunal could have dismissed the said application for non prosecution or it could have adjourned the hearing on the same rather than deciding it on merits. In support of these contentions he has relied upon the decisions of this Court in the case of **Vyankatesh Siksan Prasarak Mandal V/s. State of Maharashtra reported in 2002 (2) Bombay C.R.284 and Purushottam Langote V/s. President, Magaswargiya Gramin Mahila Shikshan Sanstha, Yenwa & ors. reported in 2006 (5) Mh.L.J. 347.**

3. The School Tribunal noted that in Appeal No.68/2002, the present Petitioners had filed their written-statement on 9-1-2003 and the amendment was being sought in the same after four years. The intention of the management was very clear, more so when it did not furnish any reasons as to why after a gap of four years, it found it necessary to seek an amendment in the written-statement. The School Tribunal, therefore, observed that the application was submitted with an intention to cause delay in the disposal of the appeal.

4. Secondly, the Tribunal considered the merits of the amendment sought and noted that after a lapse of more than four years, the management in its wisdom realised that it had filed an erroneous written statement or proper facts were not brought before the School

Tribunal. The School Tribunal noted that the amendment sought could not escape the attention of the management about 4 years or more. In the original written statement filed by the management it was contended that the appellant had been appointed on probation w.e.f. 1-6-2001 and had raised a plea of acceptance of resignation tendered by the appellant teacher. However, in the proposed amendment the management wanted to delete these contentions and put up a new plea of temporary appointment of the appellant. The School Tribunal noted that this was clearly intended to defeat the appeal and the petitioners were trying to change their defence.

5. Even otherwise the petitioners were heard at length while deciding the Review Application filed for the recall of the order dated 1-8-2007. All the contentions raised on merits including the decisions referred to hereinabove were considered by the School Tribunal. It noted that the Judgement of this Court in the case of Purushottam Langote (supra) was not applicable and so far as earlier Judgement in the case of Vyankatesh Sikshan Prasarak Mandal (supra) is concerned, the appeal was pending and the application for amendment had set out the amendment sought for and the reasons for the same. The amendment application lacked bonafides. As noted earlier even otherwise the Review Application

filed by the Petitioners has been decided after hearing the Learned Counsel for them and the Order dated 1-8-2007 stands merged with the order subsequently passed on 18-10-2007.

6. I am, therefore, satisfied that the amendment application submitted by the Petitioners was rightly rejected and the impugned orders do not suffer from any errors apparent on the face of record. The plea of breach of principles of natural justice cannot be entertained when the Petitioners filed a Review Petition which was heard at length and dismissed on merits.

. Hence, there is no case made out to cause interference in the impugned order under Article 227 of the Constitution. The Petition is rejected. Appeal is directed to be expedited.

[B.H.MARLAPALLE,J.]